

MINUTES
REGULAR MEETING
CITY COUNCIL

May 4, 2015

Mel L. Cohen, Mayor

Sally W. Sandy, City Manager
Louis E. Vinay, Jr., City Attorney

John H. Cantrell)
Forrest A. Fleming) Councilmen
Sidney Simmons)
Ronnie Thompson)

Joy Hern-Guzman, Interpreter

I. The meeting was called to order in the Council Chamber at City Hall at 5:30 p.m. by Mayor Cohen.

II. Public Comment – The Mayor stated the guidelines for public comment.

- There were no public comment speakers.

The Mayor recessed the meeting at 5:32 p.m.

III. Business of the Council – The Mayor reconvened the meeting at 6:00 p.m.

IV. Pledge of Allegiance to the Flag – Councilman Fleming led the recitation of the Pledge of Allegiance to the Flag.

V. Invocation – The invocation was given by the Rev. Mike Chandler of Summit Church.

VI. Introduction of Council – The Mayor introduced the Council and staff.

VII. Public Advocacy Issues and Strategies

a. The Mayor announced the following upcoming events: *Blood Sweat & Tears*, CoMMA, May 7; TGIF Friday nights, Old Courthouse Square; Farmer's Markets: Saturdays behind the Old Depot and Wednesdays on North Green Street.

b. Continental Update – David Jones, Plant Manager of Continental, gave an update about their business, and stated that Continental wishes to connect better with the community, of which it's proud to be a part. He described and displayed the various parts they produce; noted that they employ about 600 people in Morganton, with sales approaching \$1 billion; and emphasized Continental is a "high-tech" clean manufacturer, always in need of skilled workers.

Mayor Cohen thanked Mr. Jones for his presentation, and expressed appreciation for Continental's role in our community. He noted that in the late 1990's, Continental's generous gift made possible the construction of Morganton's Aquatic Center.

c. Burke County Chamber of Commerce – Jerry Davis, Director of the Chamber delivered two letters to the City Clerk and asked the City Council to consider adopting a resolution setting a referendum for election day (November 3, 2015) that would make Morganton's rules for the sale of beer and wine for on-premises consumption consistent with those in Valdese, Hildebran, Rutherford College and Glen Alpine. Morganton's current rules limit these sales to "hotels, motels and restaurants" and the Chamber believes this may hinder bringing new businesses to Morganton.

Colby Suttles from Brown Mountain Bottleworks located at 115 E. Union Street in downtown Morganton spoke about the issues he encountered trying to open his small business because of the current restrictions in Morganton. He asked the Council to consider changing the rules so that other new businesses don't encounter the same difficulty that he did in trying to open his business.

Louis Vinay clarified that the other towns didn't change their rules, they just recently adopted rules that for the first time allowed on premises sales.

Ronnie Thompson asked if there was a time frame for making a referendum.

Mr. Vinay stated there was a time frame. A resolution needs to be passed 45 days before calling for a referendum and that a referendum must be held at the November 3 election.

Councilman Cantrell said that the Council didn't know there was a problem with the prior rules until recently.

Council decided to consider the referendum proposal at the next Council meeting.

d. ConnectNC Resolution – The Mayor announced that the Governor's Western Regional Office had requested the City proclaim support for the Governor's proposed bond referenda.

Mayor Cohen read the proposed Resolution and made a motion to adopt the Resolution requesting that the North Carolina General Assembly call for a state-wide referendum to be placed on the ballot this coming November so that voters may consider two bond issues: one for highway and transportation improvements in the amount of \$1.4 billion and one for various infrastructure buildings and improvements in a similar amount.

Upon motion made by Mayor Cohen, seconded by Councilman Cantrell, and unanimously carried the City of Morganton City Council voted to adopt the Resolution.

e. Sally Sandy, City Manager congratulated Brad Boris, Water Resources Director, on graduating from the Municipal and County Administration Course in Chapel Hill.

VIII. North Carolina Municipal Power Agency Number 1 Update

IX. Consent Agenda – The City Manager presented the consent agenda and asked if any items should be removed from the Consent Agenda. No request was made.

Upon motion by Councilman Thompson, seconded by Councilman Cantrell, and unanimously carried, the consent agenda was approved and each individual item adopted as stated, these being as follows:

A. Approved minutes for a Regular Meeting held on April 6, 2015 and special meetings held on March 16 and April 20, 2015.

X. Items Removed from Consent Agenda – There were no items removed.

XI. New Business

1. Consideration of a Resolution to Apply for a Building Reuse and Restoration Development Grant from the NC Department of Commerce for Duralee Fabrics Ltd. - The City Manager stated the City is currently working with Burke County and BDI to apply for a Building Reuse and Redevelopment Grant for use by Duralee Fabrics which is relocating from New York to the old Carolina Shoe Plant on Hopewell Road. The grant application is for the Building Reuse and Restoration Grants program and aids local governments in assisting eligible business to reuse vacant buildings and spur economic activity that will create jobs.

The grant request is for \$410,000 and requires a 5% local match if approved. The City and Burke County will share equally in the grant match pending approval of the grant request by the NC Department of Commerce.

Sally Sandy stated that the City and County's share of the grant would be \$20,500 and would create 41 jobs.

Upon motion by Councilman Cantrell, seconded by Councilman Simmons, and carried unanimously, the Council approved Resolution #15-16 authorizing the City of Morganton to make application to the NC Department of Commerce Building Reuse and Restoration Grants Program for a grant of \$410,000 for Duralee Fabrics Ltd. / Duralee Fine Furniture Inc.

2. Consideration of Resolution to Join Western Piedmont Jobs Training Consortium – The City Manager stated that Wendy Johnson, Western Piedmont Council of Governments Workforce Development Director, sent a letter stating that new Federal Workforce Legislation was passed last summer, replacing the Workforce Investment Act (WIA) with the Workforce Innovation and Opportunity Act (WIOA).

As part of this process and to evidence commitment from each local government the Council is required to pass a board resolution reaffirming the City's commitment to be part of the Consortium.

Upon motion by Councilman Simmons, seconded by Councilman Fleming, and carried unanimously, the Council adopted a Resolution #15-17 to Join Western Piedmont Jobs Training Consortium.

3. Consideration of Appointments for Boards and Commissions / Fireman's Relief Fund Board – The City Manager stated that terms for Council appointee Tony Filice and Public Safety appointee Mark Bradshaw have expired. These members have been excellent participants on the board and have expressed interest in continuing to serve as members of the Board.

Appointments to the Fireman's Relief Fund Board are subject to the City Council's approval. Recommendation is to reappoint Tony Filice and Mark Bradshaw terms to expire on January 15, 2017.

Upon motion by Mayor Cohen, seconded by Councilman Simmons, and carried unanimously, the Council reappointed Tony Filice and Mark Bradshaw to the Fireman's Relief Fund Board for terms to expire January 15, 2017.

4. 30-Day Notice for Vacancies on Boards and Commissions - Due to upcoming expiration of terms, vacancies will exist on the following Boards and/or Commissions. The City Council makes and/or confirms appointments. Nominations and appointments will be made at the June City Council meeting.

- Board of Adjustment – 1 term expiring, 1 vacancy
- Cable Television – 4 terms expiring, 1 vacancy
- Community Appearance – 3 terms expiring
- Human Relations Commission – 5 terms expiring
- Mainstreet Advisory– 6 terms expiring
- Planning & Zoning – 3 terms expiring
- Recreation Advisory – 3 terms expiring

If anyone has an interest in volunteering for one of these vacancies, applications for *Request for Appointment to City of Morganton Boards and Commissions* are available this evening with the Clerk, during business hours from the Clerk's office or on the City website.

The Mayor stated the terms of five members of the Human Relations Commission are expiring today, May 4. Those members are Max Conley, Sandra Bristol, Ken Clark, Tico Moss, and Cecilia Surratt. He stated that all of them have served honorably and faithfully, and he confirmed that all five of them are willing and able to serve another term. These are Mayoral appointments, so he re-appointed each of the five to another term to expire on May 4, 2018.

The Mayor said that the term of Bill Davis on the ABC Board would expire soon. Bill has provided exemplary service to the Board and the City for more than 50 years. The Mayor requested that the Council go ahead and reappoint Bill.

Upon motion by Mayor Cohen, seconded by Councilman Cantrell, and carried unanimously, the Council reappointed Bill Davis to the ABC Board, for a term expiring in August, 2018.

5. Consideration of a Request Submitted by the County of Burke to Permanently Close and Abandon a Portion of Bouchelle Street Between Concord and East Meeting Streets for the Purpose of Constructing a New Burke County Jail.

Bryan Steen, County Manager, 204 Heritage Lane, Morganton, spoke requesting the Council close Bouchelle Street in order for the County to build a new Burke County Jail behind the existing Courthouse. He stated in order for the County to build the jail they selected from their proposals, the City would need to close Bouchelle Street.

Mayor Cohen asked Mr. Steen if the County could use any of the other proposals for the jail. Mayor Chen stated he had viewed several other proposals which wouldn't require Bouchelle Street to be closed.

Mr. Steen stated that none of the other proposals were logical and the other proposals would cost the County more to build.

Councilman Cantrell asked what the current jail capacity was and why the County needed 250 beds.

Mr. Steen stated that the County had made a deal with Catawba County for 88 beds and that the new jail would need to incorporate that need.

Councilman Cantrell again asked how many beds were currently being used.

Mr. Steen stated he wasn't sure how many beds were currently used, maybe 55 downtown and maybe 100 at the shared facility with Catawba. Steen also stated that the new facility would need to accommodate the provision of "daylight" (natural light to cell areas) now being required.

Mayor Cohen asked how the other jails such as the one in Asheville deal with the daylight requirement since they are a multi-story jails.

Councilman Fleming asked what the County would do with the extra 100 beds.

Mr. Steen said that 88 of the beds were for Catawba County.

Mr. Johnnie Carswell, Chairman of the Burke County Board of Commissioners, answered that the County would rent the extra beds out to the State for extra money.

He said that the County would have to wing off some of the units for minors because they have to be kept apart from the other inmates, a wing apart from the others would have to be for females, and that if all of the cells were separate the County could more easily keep the various wings apart. He also stated that with the daylight requirements none of the other proposals could be used. The other proposals didn't contain fully separated cells.

Councilman Thompson asked the City Manager to clarify Bouchelle Street and its issues regarding closing.

Sally stated that Bouchelle Street was created as a future Eastern downtown bypass which is why it is so wide. Originally it was planned to extend all the way through town to McDowell Street and even to Fleming Drive. Also, the bulk of Bouchelle Street was constructed on a debris field, and drainage facilities and utilities were also located in the right-of-way. Sally also reminded the County that the City needed a traffic study and that we had requested that from the County back in September.

Mr. Steen stated that the County hasn't completed a traffic study.

Councilman Thompson asked Lee Anderson to explain more about Bouchelle Street.

Lee Anderson, Director of the Development and Design Services Department, stated that there was a 60 inch storm drainage pipe under the vacant lots adjoining this block of Bouchelle Street and that the pipe is 40 feet in the ground. Anderson stated that the drainage pipe will eventually fail and that there could potentially be a sink hole under the jail if the County were allowed to build on Bouchelle Street. Also he reminded the County that Bouchelle Street was built on a debris field and that putting a building on an old debris field could also cause problems. Anderson stated that the closing of Bouchelle Street must pass three (3) tests as outlined in N.C.G.S. 160A-299:

- Not interrupt future connectivity to other areas of the City.
- Not deprive adjacent property owners from ingress or egress to their property.
- Not be contrary to the public interest.

Anderson stated that the proposal fails in at least two areas:

- It would interrupt future connectivity.
- It is contrary to the public interest.

Lee also stated that it would also be expensive to move the utilities and the City would have to charge the developer to move all of the utilities. He added that the storm drain could not be moved and therefore the County would have to take responsibility/liability for any failure of the storm drain.

Mayor Cohen asked if the 'daylight' requirement for the jail could be overcome.

Mr. Steen stated the County would not consider any other option and that it would be too expensive.

Mayor Cohen said the City would like to work with the County, but could the County possibly use a different proposal?

Sally Sandy stated that all of the Council's committees (Street, Utility and Finance) recommended against closing Bouchelle Street.

Councilman Fleming asked if the County would cover all of the costs of utilities.

Councilman Simmons asked if the County would also cover all drainage issues and failure issues.

Mr. Steen said the County would like repairs to be made to the drainage pipe before building on the site. Mr. Steen said the County would be responsible for paying for the moving of utilities.

Councilman Cantrell stated that a traffic study was needed and that he used Bouchelle Street every day to go home from work and the he would like to see it remain open.

Sally Sandy said that DOT had asked the City to consider doing improvements to the intersection of Bouchelle and Avery with the installation of a new signal light. The impact of that improved intersection may increase use of Bouchelle, and the City needs to understand how traffic would be affected with the closing of Bouchelle Street.

Councilman Simmons stated that he hated to see the County spend money for a traffic study and the City still not close Bouchelle Street.

Councilman Fleming asked if soil tests had been performed.

Mr. Steen said they had performed soil tests and that he was pleased that the results weren't too bad.

Mayor Cohen stated that he would love to see a new jail, only a multi-level design that wouldn't close Bouchelle Street and a design that would work to get the daylight requirement addressed.

Councilman Cantrell asked the County to look at the numbers again and consider building the jail with less beds and not close Bouchelle Street.

Mr. Steen said they still would need additional parking spaces and they needed the space for safety.

Sally Sandy asked if the County could look at using just part of Bouchelle Street and still be able to use the road for traffic.

Mr. Steen said they needed the extra space for safety.

Johnnie Carswell stated the only proposal the County could use was the proposal the Commissioners voted on and that there was no way to build any other proposed jail with the daylight requirements and still have separate contained cells.

In response to an inquiry about how the Council should proceed, Attorney Vinay stated that the Council could make a motion to vote on the issue.

Johnnie Carswell said the Council needed to vote and let the County know for sure whether the City would close Bouchelle Street.

Mayor Cohen stated he had viewed at least one proposal which did not require the closing of Bouchelle Street and it was a multi-level.

Johnnie Carswell stated that the County could not rent the extra beds to the State with any other proposal. The State's misdemeanor program was a big deal and that they needed the program to offset the cost of building the new jail. He also stated that the decision was already made by the County Commissioners that they voted on this proposed jail to be built.

Councilman Cantrell asked if the County would not be willing to make any other considerations.

Councilman Fleming asked if the County would not be willing to look at any other solutions.

Johnnie Carswell stated that if the Council would not close Bouchelle Street then the County would have to look at other options.

Councilman Simmons said that the City wants to work with the County, but that it cannot close the street.

Councilman Fleming said the Council understands the County's concerns and wants what is best for all, but the City Council is obligated to represent the City and do what is best for the City, and that he hopes that the County would look at other options for that site.

Councilman Thompson asked for the Council to vote one way or another on closing Bouchelle Street so that the County would know now whether or not the City would close the street.

Upon motion by Councilman Thompson, seconded by Councilman Simmons, and carried unanimously, the Council adopted a motion NOT to adopt a Resolution of Intent to Close Bouchelle Street.

XII. Other Items from City Manager and City Council Not on Agenda – There were no other items.

XIII. Reports – Reports were distributed for information.

XIV. Adjournment – The meeting was adjourned at 7:30 p.m.

Preparation of Minutes. These minutes were prepared by Carolyn Richardson, Paralegal filling in for the Assistant City Clerk who was absent. Copies of all resolutions, ordinances and orders referenced in these minutes are intended to be incorporated into these minutes as if fully set forth herein. Prior to including them into the official minute book, the minutes have been read and approved by the City Manager and the City Attorney, then distributed to each member of the City Council for further review and final approval, at a subsequent Council Meeting.



Mayor

Assistant City Clerk